



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
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("Partnership") is a Massachusetts limited partnership formed to acquire, own, and operate existing cable television systems in County, Florida. Units of limited partnership interest will be sold to Massachusetts resident and nonresident individuals and corporations. The general partner of the Partnership will be ("General Partner"), a Massachusetts corporation. All of the outstanding stock of the General Partner is held by ("Corporation"), a privately-held Delaware corporation which owns and operates cable television systems (through wholly-owned or eighty percent owned subsidiaries), many of which are located in Massachusetts. It is represented that the Partnership will at no time acquire any business assets to be located in Massachusetts, however, it may maintain Massachusetts bank accounts.

Under the partnership agreement, the General Partner will possess broad powers to manage the Partnership business on a daily basis. Such powers include the right to execute documents on behalf of the Partnership, to sell Partnership assets, and to borrow and lend money. It is anticipated that substantially all of the employees engaged in the routine operation of the cable television systems will be located in Florida. However, because the General Partner is a Massachusetts corporation, many or most of whose senior officers and directors are Massachusetts residents, management decisions and supervision of the Partnership will take place in Massachusetts.

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Corporation will enter into a management agreement with the Partnership under which it will have major responsibility for over-all direction and supervision of the Partnership on a long-term basis. It is anticipated that much or most of the Corporation's activity in managing the Partnership under the management agreement will be conducted by personnel of the Corporation (who will not be employees of the Partnership but who will be officers of the General Partner) who will be located in Massachusetts.

You request rulings as to the following:

(1) Whether an individual who is a nonresident limited partner is subject to Massachusetts income taxation on his distributive Partnership share; and

(2) Whether a foreign corporation which is a limited partner is subject to the Massachusetts corporate excise on its distributive Partnership share.

A partnership is not subject to Massachusetts income taxation. Individuals carrying on business as partners are liable for Massachusetts income taxes only in their separate or individual capacities. (G.L. c. 62, § 17). The character of any item of income, loss, deduction or credit included in a partner's distributive share is determined as if each item were realized directly by the partner (G.L. c. 62, § 17(c)).

A nonresident partner's distributive share of partnership income is subject to the tax imposed on nonresidents by General Laws Chapter 62, Section 5A. (G.L. c. 62, § 17(b)). The gross income of nonresidents is determined with respect to items of gross income from sources within Massachusetts. (G.L. c. 62, § 5A). Items of gross income from sources within Massachusetts are those derived from or effectively connected with:

(1) any trade or business, including any employment carried on by the taxpayer in Massachusetts;

(2) the participation in any lottery or wagering transaction within Massachusetts; or

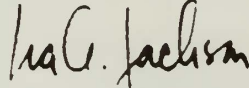
(3) the ownership of any interest in real or tangible personal property located in Massachusetts. (G.L. c. 62, § 5A(a)).

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Every foreign corporation, exercising its charter, or qualified to do business or actually doing business in the Commonwealth, or owning or using any part or all of its capital, plant or any other property in the Commonwealth is subject to the Massachusetts corporate excise. (G.L. c. 63, § 39). The term "doing business" means and includes each and every act, power, right, privilege, or immunity exercised in Massachusetts, as well as, the buying, selling or procuring of services or property. (G.L. c. 63, § 39(1)).

You state that overall management and supervision of the Partnership is performed by the General Partner in Massachusetts. Such activities effectively engage the Partnership in doing business in Massachusetts. Therefore, a nonresident individual limited partner will be subject to Massachusetts income taxation on that portion of his distributive Partnership share which is attributable to Massachusetts source income. A foreign corporation which is a limited partner will not be subject to the Massachusetts corporate excise as long as such corporation is not "doing business" within the Commonwealth, as that term is defined in General Laws Chapter 63, Section 39(1).

Very truly yours,



Commissioner of Revenue

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